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STATE DOCUMENTS

STATE OF MONTANA

DEPARTMENT OF LABOR AND INDUSTRY

HELENA, MONTANA,

RECEIVED
JAN 8 1963
MONTANA LEGISLATIVE COUNCIL

November 26, 1962

The Honorable Tim Babcock
Governor of Montana
State Capitol Building
Helena, Montana

Sir:

Persuant to Section 41-1607, Revised Codes of Montana, 1947. I am herewith transmitting the annual report of the Department of Labor and Industry.

Very truly yours

J. Maurice Jones
Commissioner

JMJ/lch

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1962, ANNUAL REPORT OF THE DEPARTMENT OF LABOR & INDUSTRY.

Personnel; Commissioner and Secretary.

Bienniel Budget. $23,906.00
Budget per year $11,953.00

Salaries per year. $ 9,600.00

Number - wage claims submitted by employees.....89

" " " " carried over from 1961.....29

Total wage claims acted on.....128

Total in dollars claimed by employees.....$29,637.26

Number of wage claims settled.....51
(18 were carried over from 1961)

Total in dollars of wage claims settled.....$11,919.24

Number of Wage claims referred to county attorneys for action.....14

Number of wage claims referred to the U. S. Department of Labor for action*.....13

Number of wage claims where no action was taken....17

Number of Wage claims still pending.....54

Total in dollars of pending claims.....$18,117.32

Number of miles traveled investigating claims.....14,976

Number of age certificates issued to minors sixteen years of age or over.....902

Number of labor law booklets issued free.....340

Major strikes in 1962

ACM-Teamsters.....	duration	three weeks
Montana Power-Electricians.....	"	two months
Diamond National-Woodworkers.....	"	four "

* Better than $50,000.00 was collected in the oil fields in the Williston Basin in 1962.
Collected $70,000.00 from employers throughout the state in 1961.

RECAP 1961 REPORT.

Personnell; Commissioner an Secretary.

Bienniel Budget. $23,906.00
Budget per year $11,953.00

Salaries per year $ 9,540.00

Number of claims submitted by employees.....128

Total in Dollars claimed by employees.....$39,036.40

Number of Wage claims settled.....37
(11 were carried over from 1960)

Total in dollars of wage claims settled.....$ 5,265.12

Number of wage claims referred to county attorneys for action.....5

Number of wage claims referred to the U. S. Department of Labor for action.....6

Number of wage claims where no action was taken.... 17

Number of Miles traveled during year investigating claims.....13,847

Number of age certificates issued minors over sixteen years of age.....823

Recommendations are the same as included in the 1962 report.

THE DUTIES OF THE DEPARTMENT ARE SET FORTH IN SECTIONS, 41-1605, 41-1607, 41-1608, REVISED CODES OF MONTANA, 1947.

SECTION 41-1605. The Department of Labor and Industry shall be charged with the duty of enforcing all the laws of Montana relating to hours of labor, conditions of labor, prosecution of employers who default in payment of wages, protection of employees, all laws relating to child labor regulating the employment of children in any manner,and to administer the laws of the state relating to free employment offices.

Section 41-1607. The Commissioner shall collect, assort and arrange, systematize and present in the annual report to the Governor, on or before the first day of December in each year, statistical details relating to the Department of Labor and Industry in the State of Montana.

SECTION 41-1608. The annual reports of the Commissioner shall be combined in one volume and published biennially.

This 1962 report has been made as brief as possible.
Included are comments on:

1. Aid in Collection of Wages.
2. Montana represented at the Conference of Western Labor Officials.
3. Revision of labor laws.
4. Recommendations for legislative action.

1. The aid in the collection of wages is the most essential and important duty of the office. Satisfaction is had when one realizes the amount of money collected for those who otherwise would have lost if the state had not intervened. At present we are only scratching the surface. As time goes on more claims will be filed when the duty of the office becomes better known.

2. Montana was represented, by this office at the conference of Western Labor Officials in Seattle the latter part of May. It was informative and very worth while. Topics of discussion were everyday problems which had arisen in the different labor depts. If Montana is to develop industrially, knowledge of these problems which industrialized states face could be very important.

3. Laws needing revision are: Section 4, Article XVIII, Montana Constitution; Sections 10-201, 10-203, 41-901, 41-1301 and 41-1312.

Section 4, Article XVIII, of the State Constitution provides for the eight hour day, To enforce this section is grossly unfair to some contractors. The short seasons, enclement weather and types of work performed create emergencies where it is mandatory they work longer than that prescribed by law. Section 41-1121, has a provision which protects contractors who have contracts with the state, city, county or any subdivision of state government. Is the law fair wherein it protects the contractor who has a public contract and who works longer than eight hours a day and calls it a crime for the other contractor who does the same when he does not have a public contract and is doing the same type of work.

In the past, incidents have happened which complicates section 4, further. The decisions of the State Supreme Court and an Opinion of the Attorney General casts doubt in the minds of officials who have to enforce the law. The questions arise. Is it feasable to intercede in cases of violation of this section? How can an employer be told he can work only eight hours in his own business? Was the decision of the court in accord with the intent of legislature? It is not hard to reason why county attorneys are afraid to proceed when a violation is brought to their attention.

State v Livingston Concrete Mfg. Co. 34 M. 570, 577.
Melville v. Burke Balaklava Copper Co. 47 M. 1, 6.
Volume 23, No. 77.

Sections, 10-201 and 10-203, deal with the employment of minors. Section 10-201, was rendered void in the case of Burke v Montana Power Co. 79 M. 52, 63. Hazardous occupations as specified in the Industrial Accident Board codes should be extended to this child labor provision and the age of the minor should be raised to eighteen. Section 10-203, should be revised to conform to the child labor provisions of the Fair Labor Standards Act. The age of the child should be lowered to fourteen years of age for the protection of the child and the employer alike.

Section 41-901, the arbitration and conciliation law is one of the oldest. It was passed by the territorial legislature in 1887. Since the enactment of the Taft-Hartley Act, federal courts have rules that state arbitration and conciliation laws cannot preempt the jurisdiction of the National Labor Relations Board.

However this section, if revised could be made to work very easily. In revision the legislature could copy the New York and California laws and specify that arbitration and conciliation be worked from a voluntary basis. Many work stoppages could be averted before the federal board could intervene. If the state had had such a law the 1959 strike in Butte and the strikes this year could have been averted.

Sections, 41-1301 and 41-1312, relate to the payment of wages. Section 41-1301, has to many exemptions for the employer. These exemptions should be stricken from the law. Section 41-1312, is a good law for what it covers. It should be amended to cover more employments.

4. Recommendations for legislative action are:

a. The enactment of a minimum wage law.

b. To require all contractors to have a contractor's license issued by the State Board of Equalization.

c. To require all clerks of any subdivision of the state government to file a copy of the contract for any public works with this office.

a. It is realized that a minimum wage law has been a controversial subject during the past few years. The last few legislative assemblies have defeated attempts to enact one. Thirty five states , the federal government and New York City have laws governing wages. The amount paid in these areas range from seventy five cents to one dollar and fifty cents per hour. In 1961 Congress amended the wage provisions of the Fair Labor Standards Act to cover several million more workers. In October, New York City raised its minimum wage to one dollar and fifty cents per hour. As a rule elderly people who must work are exempt from the provisions of the law.

It has been learned from first hand information that many workers in the smaller communities work for the low wage of fifty cents an hour. It is suprising the number of requests that come from this group asking if the state has a minimum wage law. They cannot understand why the federal government has one and the state has not. They would like to receive more for their endeavors but seem afraid of losing their jobs. The majority of wage claims filed with this office come from this group.

In the communities where the working force is organized the wages are good. The non-organized, in the smaller communities should be given some protection. It is impossible for them to organize. The cost of living is just as high where they reside as it is in Butte, Helena, Missoula or Billings. In justice to them a minimum wage law should be passed.

b. In the construction and lumbering industry thousands of dollars are lost every year by the wage earner, the merchant and the general public from individuals who class themselves as contractors. The common description of this group is "gypo". They lack the sense of responsibility to meet their obligations. They do not:

Insure their employees under the workmens compensation act.

Pay their just share into the unemployment compensation fund.

Pay the wages earned by their employees.

If these contractors had to buy a license issued by the State Board of Equalization a better check on their actions could be made by several different agencies.

c. By law the Department of Labor and Industry has to enforce two statutes relating to public contracts, the prevailing wage and performance bond sections. In several cases investigated these sections were deleted from the contract and the contractor had paid substandard wages. This is grossly unfair to the contractor who complies. These cases were discovered accidently. There is no way of knwoing when any subdivision of government is contemplating a public works program. Legal counsels for these agencies did not know or ignored the law. Knowledge of these contracts beforehand would guarantee more work for Montana workers.

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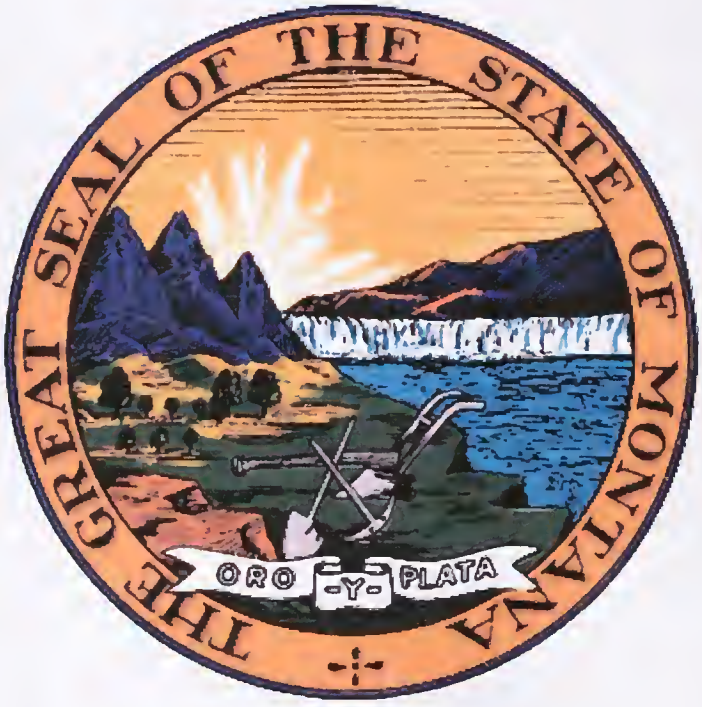

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